

RECIPROCAL TRADE

*Exchange of notes at Bern September 19, October 4, and November 5 and 14, 1940, modifying agreement of January 9, 1936; proclamation issued by the President of the United States November 28, 1940*¹

Entered into force November 14, 1940; operative January 1, 1941

*Supplemented by agreement of June 8, 1955*²

*Terminated December 31, 1968, by agreement of October 28, 1968*³

54 Stat. 2461; Executive Agreement Series 193

EXCHANGE OF NOTES

The American Legation to the Division of Commerce, Federal Department of Public Economy

LEGATION OF THE UNITED STATES OF AMERICA

No. 97

The Legation of the United States of America presents its compliments to the Division of Commerce of the Federal Department of Public Economy and, under instructions from the Secretary of State, has the honor to refer to previous correspondence and personal conversations with regard to the intention of the American Government to modify the Trade Agreement between the United States of America and Switzerland⁴ with respect to the concession relating to handkerchiefs included in Item 1529(b) of Schedule II of the agreement.

In the light of representations received as a result of the public announcement in Washington on March 29, 1940,⁵ of intention to withdraw, in part, the handkerchief concession in the manner described in the Legation's note No. 87 of April 1, 1940, it is proposed to reword the concluding proviso attached to the list of items remaining subject to the reduced rates of duty, as follows:

¹ 54 Stat. 2461; EAS 193, p. 1.

² 6 UST 2845; TIAS 3328.

³ 19 UST 6210; TIAS 6574.

⁴ Agreement signed at Washington Jan. 9, 1936 (EAS 90, *ante*, p. 926).

⁵ 5 Fed. Reg. 1280.

“Provided, that no handkerchiefs which were provided for in Item 1529(b) of Schedule II of the Trade Agreement between the United States of America and Switzerland as proclaimed by the President of the United States of America on January 9 [May 7], 1936, shall be excluded from classification under this item by reason of incidental handwork necessary to finish the machine work or to mend or correct defects.”

It is the intention of the Government of the United States to take action in the near future, under Article 16 of the Trade Agreement, withdrawing the handkerchief concession, in part, as stated in this Legation's note dated April 1, 1940, except that the proviso will be reworded as indicated in the second paragraph of the present note. Although the modification in the handkerchief concession will not be made effective until January 1, 1941, it is the intention of the American Government to announce the modification immediately in order to give importers as much advance notice as possible. Accordingly, the American Government hopes that the Swiss Government will signify its agreement in the next few days with respect to the modification in the handkerchief concession proposed by the Government of the United States of America. But, in any event, the American Government will feel constrained in the very near future to take the action proposed in accordance with the provisions of Article 16.

In expressing the hope of the Government of the United States that a reply to the foregoing may be received in the very near future, the Legation avails itself of the opportunity to renew to the Division of Commerce of the Federal Department of Public Economy the assurance of its high consideration.

BERN, *September 19, 1940*

To the

DIVISION OF COMMERCE

FEDERAL DEPARTMENT OF PUBLIC ECONOMY

Bern

*The Division of Commerce, Federal Department of Public Economy,
to the American Legation*

[TRANSLATION]

FEDERAL DEPARTMENT OF PUBLIC ECONOMY
DIVISION OF COMMERCE

BERN, *October 4, 1940*

The Division of Commerce of the Federal Department of Public Economy has the honor to acknowledge the receipt of the note of September 19 last (no. 97) from the Legation of the United States of America concerning the modification of the clause concerning handkerchiefs (no. 1529(b) of the American tariff) contained in Schedule II of the trade agreement between

the United States of America and Switzerland, signed on January 9, 1936, and to inform the Legation that it agrees with the proposal appearing on page 1 of the said note worded as follows:

"Provided, that no handkerchiefs which were provided for in Item 1529 (b) of Schedule II of the Trade Agreement between the United States of America and Switzerland as proclaimed by the President of the United States of America on January 9, 1936, shall be excluded from classification under this item by reason of incidental handwork necessary to finish the machine work or to mend or correct defects."

The Division of Commerce takes the liberty, nevertheless, of adding that according to the opinion in Swiss handkerchief-manufacturing circles it would be preferable in the text quoted above to replace the words "necessary to finish the machine work or to mend or correct defects", by the following text:

". . . necessary to finish the work done on the multiple-needle embroidery machine or to mend or correct defects."

The Division of Commerce of the Federal Department of Public Economy takes this occasion to renew to the Legation of the United States of America the assurances of its high consideration.

To the

LEGATION OF THE UNITED STATES OF AMERICA
Bern

*The American Legation to the Division of Commerce, Federal Department
of Public Economy*

No. 100

LEGATION OF THE
UNITED STATES OF AMERICA

The Legation of the United States of America presents its compliments to the Division of Commerce of the Federal Department of Public Economy and has the honor to state that the Legation did not fail to transmit to its Government the contents of the Division's note dated October 4, 1940, expressing the Swiss Government's acceptance of the proviso relating to handkerchiefs as set forth on page 1 of the Legation's note No. 97 of September 19, 1940.

As regards the changes desired by the interested Swiss manufacturers, as set forth in the Division's note of October 4, the Legation has been directed to inform the Swiss authorities that after careful and sympathetic consideration, it has not been found feasible to adopt these suggestions for the following reasons:

1. It is felt that the revised concession (as given in the wording of the proviso contained in the second paragraph of this Legation's note No. 97 dated September 19, 1940) is sufficient to prevent handkerchiefs, on which any substantial part of the ornamentation has been done by hand, from being entered at the agreement rate.

2. If the purpose of the Swiss suggestion is to exclude from the scope of the concession, handkerchiefs which are ornamented on machines, other than multiple-needle machines, it is believed that there is a misunderstanding as to the purpose of the proviso, which is simply to make it clear that the words "which are not embroidered, tamboured or appliquéd in any part by hand", et cetera, do not exclude from the concession such incidental hand operations as are described in the proviso. The Swiss proposal for amendment of the proviso would not exclude handkerchiefs ornamented on machines other than multiple-needle machines from the benefit of the concession, if they have not been ornamented or finished in any part by hand. Adoption of the Swiss language would, however, create uncertainty as to the treatment which would be accorded to such handkerchiefs when they had been incidentally hand finished.

3. Past experience, in any event, does not indicate that any important trade could be developed under the concession in handkerchiefs ornamented on machines other than multiple-needle machines. It is not believed, therefore, that Switzerland would be particularly benefited by the adoption of the suggestion regarding revision of the proviso, while the wording might involve considerable administrative difficulty.

4. The suggestion that the word "machine" be administratively interpreted to mean multiple-needle machine does not appear to be legally feasible, as it is believed that such an interpretation would not be upheld by the courts.

The Legation expresses its Government's most cordial appreciation of the cooperation which the Swiss Government has given in this matter and would be glad if it may now finally report the agreement of the Swiss Government to the modification of the handkerchief concession pursuant to the formal notice of intention to make such change in accordance with Article XVI of the Trade Agreement.

The Legation avails itself of this opportunity to renew to the Division of Commerce of the Federal Department of Public Economy the assurance of its high consideration.

BERN, November 5, 1940

To the

DIVISION OF COMMERCE OF THE
FEDERAL DEPARTMENT OF PUBLIC ECONOMY
Bern

*The Division of Commerce, Federal Department of Public Economy,
to the American Legation*

[TRANSLATION]

BERN, November 14, 1940

FEDERAL DEPARTMENT OF PUBLIC ECONOMY
DIVISION OF COMMERCE

The Division of Commerce of the Federal Department of Public Economy has the honor to acknowledge the receipt of the note of the Legation of the United States of America dated the 5th instant (no. 100) concerning the modification of the provision respecting handkerchiefs (no. 1529 (b) of the American tariff) contained in Schedule II of the trade agreement between the United States of America and Switzerland, signed on January 9, 1936. The Division of Commerce notes that for the reasons set forth in the above-mentioned note, the American Government does not consider it possible to accept the proposals contained in the Division's note of October 4 last. These proposals having been presented merely as suggestions, the Division of Commerce has the honor to state that the Federal Council accepts the modification proposed by the Government of the United States in conformity with Article XVI of the trade agreement of January 9, 1936. In view of the notes exchanged between the Legation of the United States and the Division of Commerce, the text of the provision concerning handkerchiefs (no. 1529 (b) of the American tariff) contained in Schedule II of the trade agreement of January 9, 1936, will henceforth be worded as follows:

"1529 (b)

Handkerchiefs, wholly or in part of machine-made lace; handkerchiefs embroidered (whether with a plain or fancy initial, monogram, or otherwise, and whether or not the embroidery is on a scalloped edge), tamboured, appliqued, or from which threads have been omitted, drawn, punched, or cut, and with threads introduced after weaving to finish or ornament the openwork, not including one row of straight hemstitching adjoining the hem; any of the foregoing, finished or unfinished, which contain no handmade lace, which are not embroidered, tamboured, or appliqued in any part by hand, from which threads have not been omitted, drawn, punched, or cut by hand, and having no threads introduced by hand to finish or ornament the openwork:

Composed wholly or in chief value of cotton	2¢ each and 30% ad val.
Composed wholly or in chief value of vegetable fiber other than cotton:	
If finished and valued at 80 cents or more per dozen	2¢ each and 30% ad val.
If unhemmed and without any finished edge, and valued at 45¢ or more per dozen	2¢ each and 30% ad val.

"Provided, that no handkerchiefs which were provided for in Item 1529 (b) of Schedule II of the Trade Agreement between the United States of America and Switzerland as proclaimed by the President of the United States of America on January 9, 1936, shall be excluded from classification under this item by reason of incidental handwork necessary to finish the machine work or to mend or correct defects."

The Division of Commerce of the Federal Department of Public Economy takes this occasion to renew to the Legation of the United States of America the assurances of its high consideration.

FEDERAL DEPARTMENT OF PUBLIC ECONOMY
DIVISION OF COMMERCE

To, the
LEGATION OF THE UNITED STATES OF AMERICA
Bern